

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MATTHEW S. LOGUE, individually and as)	
Administrator of THE ESTATE OF SHELBY)	
ANN LOGUE)	
)	Civil Action No.
Plaintiff,)	
)	
vs.)	<i>ELECTRONICALLY FILED</i>
)	
PATIENT FIRST CORPORATION,)	
individually and/or doing business as)	
PATIENT FIRST URGENT CARE, EAST)	
YORK; PATIENT FIRST URGENT CARE,)	
EAST YORK; ESMERALDA DEL)	
ROSARIO, M.D., c/o PATIENT FIRST)	
URGENT CARE, EAST YORK;)	
)	
Defendants.		

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441, *et. seq.*, the Defendants named as Patient First Corporation, individually and/or doing business as Patient First Urgent Care, East York; Patient First Urgent Care, East York; Esmeralda Del Rosario, M.D. (hereafter “Moving Defendants”), by and through their undersigned counsel, hereby remove the above-captioned civil action, filed in the Court of Common Pleas of York County, Pennsylvania (No. 2016-SU-000913-82), to this Court. As grounds for removal, Moving Defendants state as follows:

**DEFENDANTS HAVE SATISFIED THE
PROCEDURAL REQUIREMENTS FOR REMOVAL**

1. Venue is proper in the Middle District of Pennsylvania under 28 U.S.C. § 1446(a) because this District embraces the place where the removed action is pending.
2. On or about April 1, 2016, Plaintiff filed a Writ in the Court of Common Pleas of York County, Pennsylvania naming Moving Defendants as well as Cardiac Diagnostic

Associates, P.C. and John J. Bobin, M.D. as defendants. Pursuant to 28 U.S.C. § 1446, a true and correct copy of the Writ served upon Moving Defendants is attached hereto as Exhibit A.

3. Defendants, Cardiac Diagnostic Associates, P.C. and John J. Bobin, M.D. are Pennsylvania defendants.

4. Thereafter, on or about August 12, 2016, Plaintiff filed a Complaint against Moving Defendants. Pursuant to 28 U.S.C. § 1446, a true and correct copy of the Complaint served upon Moving Defendants is attached hereto as Exhibit B.

5. On or about August 24, 2016, Plaintiff filed a Voluntary Discontinuance as to defendants John J. Bobin, M.D. and Cardiac Diagnostic Associates. Pursuant to 28 U.S.C. § 1446, a true and correct copy of the Discontinuance served upon Moving Defendants is attached hereto as Exhibit C.

6. This Notice is timely under 28 U.S.C. § 1446(b)(3) in that it is filed within thirty (30) days after receipt by the defendants of a copy of the Complaint, from which it was first ascertained that the case is one which is or has become removable. The Writ had named Dr. Bobin and Cardiac Diagnostic Associates, both of whom were Pennsylvania defendants whose inclusion in this lawsuit defeated diversity.

7. There are no other defendants named in this action.

8. Pursuant to 28 U.S.C. § 1441(a), any civil action over which the district courts of the United States have original jurisdiction may be removed from state to federal court.

9. 28 U.S.C. § 1441(a) provides that “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”

10. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332, which grants the district courts of the United States original jurisdiction over any civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States.

REMOVAL IS PROPER UNDER 28 U.S. CODE § 1332 BECAUSE THERE IS COMPLETE DIVERSITY AND THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000

11. Plaintiff, Matthew S. Logue is an individual who resides in 20 Scarborough Fare, Stewartstown, Pennsylvania. *See* Exhibit B. Accordingly, Plaintiff is a citizen of the Commonwealth of Pennsylvania.

12. Patient First Corporation d/b/a Patient First Urgent Care, East York is named incorrectly in the Complaint.

13. Patient First Corporation, does not provide health services, nor does it employ center medical or non-medical staff.

14. The appropriate defendant and practice entity is Patient First Pennsylvania Medical Group, PLLC, a Virginia professional limited liability company. None of the members of Patient First Pennsylvania Medical Group, PLLC are residents of Pennsylvania for purposes of jurisdiction.

15. Patient First Pennsylvania Medical Group, PLLC has a headquarters and principal place of business are in Glen Allen, Virginia. Accordingly, pursuant to 28 U.S.C. § 1332(c), Patient First Pennsylvania Medical Group, PLLC is a citizen of the State of Virginia.

16. There is no such entity as Patient First Urgent Care, East York.

17. Esmeralda Del Rosario, M.D. is an individual who resides in the State of Maryland. Accordingly, Dr. Del Rosario is a citizen of the State of Maryland.

18. There is complete diversity of citizenship because Plaintiff is a citizen of Pennsylvania, and Defendant Dr. Del Rosario is a citizen of Maryland, and Defendant Patient First Pennsylvania Medical Group, PLLC is a citizen of the State of Virginia. *See* 28 U.S.C. § 1441(b)(2).

19. Because there is complete diversity between Plaintiff and all Defendants and the amount in controversy exceeds \$75,000, this Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332.

20. A copy of this Notice of Removal is being served on counsel for Plaintiff and will be filed with the Clerk of the York County Court of Common Pleas, in accordance with the provisions of 28 U.S.C. § 1446(d).

21. Defendants preserve herein any and all other bases of removal.

WHEREFORE, Defendants, Patient First Corporation, individually and/or doing business as Patient First Urgent Care, East York; Patient First Urgent Care, East York; and Esmeralda Del Rosario, M.D., hereby remove this action from the Court of Common Pleas, York County to the United States District Court for the Middle District of Pennsylvania.

Dated: September 9, 2016

Respectfully submitted,

/s/ Kenneth L. Racowski

Kenneth L. Racowski (Pa. I.D. No. 90514)
BUCHANAN INGERSOLL & ROONEY PC

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215-665-8700
215-665-8760 (Facsimile)

Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Removal was served upon the following counsel of record via first-class mail, postage pre-paid this 9th day of September 2016:

Peter M. Villari, Esquire
Paul D. Brandes, Esquire
Nicole T. Matteo, Esquire
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Attorneys for Plaintiff

Court of Common Pleas York County
Prothonotary's Office
York County Courthouse
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York, PA 17401

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